

DURIE TANGRI LLP
RYAN M. KENT (SBN 220441)
rkent@durietangri.com
332 Pine Street, Suite 200
San Francisco, CA 94104
Telephone: (415) 362-6666

Attorneys for Plaintiff C&C JEWELRY MFG, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Case No. 3:09-cv-01303-JF

C&C JEWELRY MFG., INC.,

Plaintiff,

v.

TRENT WEST,

Defendant.

And Related Counterclaims

**STIPULATION AND ~~PROPOSED~~
ORDER OF DISMISSAL
WITHOUT PREJUDICE OF
COUNTS I, II, AND V PURSUANT
TO FEDERAL RULE OF CIVIL
PROCEDURE 41(a)(1)(A)(ii)**

WHEREAS Plaintiff C&C Jewelry Manufacturing, Inc. ("C&C") brought suit against Defendant Trent West ("West") seeking, *inter alia*, declaratory judgment of non-infringement, invalidity and unenforceability of U.S. Patent No. 6,602,045 ("the '045 patent") (Count I), U.S. Patent No. 6,553,667 ("the '667 patent") (Count II) and U.S. Patent No. 6,993,842 ("the '842 patent") (Count V);

WHEREAS West contends that no actual case or controversy exists as to Counts I, II and V because West contends that there is no substantial controversy between West and C&C of sufficient immediacy and reality to warrant the issuance of a declaratory judgment in connection with the '045, '667 and '842 patents, including no reasonable apprehension of suit on those patents; and

WHEREAS, based on the above representation by West, C&C agrees to dismiss without prejudice Counts I, II and V so that the parties can narrow the issues involved in this litigation to the remaining counts of its Complaint.

IT IS HEREBY STIPULATED by and between C&C and West, through their designated counsel, that Counts I, II and V of the Complaint are hereby DISMISSED WITHOUT PREJUDICE pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii). Each party shall bear its own costs and attorneys' fees as to Counts I, II and V.

Respectfully stipulated to by:

DURIE TANGRI LLP

KING & KELLEHER, LLP

By: /s/Ryan M. Kent
Ryan M. Kent

By: /s/Alvin B. Lindsay
Alvin B. Lindsay

Attorneys for Plaintiff C&C Jewelry Mfg., Inc.

Attorneys for Defendant Trent West

Date: November 17, 2009

Date: November 17, 2009


FILER'S ATTESTATION

Pursuant to General Order No. 45, Section X (B) regarding signatures, I, Ryan M. Kent,
attest that concurrence in the filing of this document has been obtained.

/s/ Ryan M. Kent
Ryan M. Kent

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: November 24, 2009



Hon. Jeremy Fogel
United States District Judge

CERTIFICATE OF SERVICE

I certify that all counsel of record is being served on November 17, 2009 with a copy of this document via the Court's CM/ECF system.

Alvin B. Lindsay. alindsay@kingandkelleher.com

Edward Vincent King, Jr. evking@kingandkelleher.com

By: /s/ Daralyn J. Durie
Daralyn J. Durie

Attorneys for Plaintiff and Defendant-Counterclaim
C&C JEWELRY MFG, INC.